

*Chrono*  
*Leg*OLL 84-0212  
19 January 1984

MEMORANDUM FOR: Deputy Director, Office of Legislative Liaison

FROM:

SUBJECT: Polygraph Legislation - McKinney Bill

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1. Attached at Tab A is a draft letter, with our proposed amendatory language and sectional analysis, from you to Rod Rahe, Legislative Director for Representative McKinney. The letter reflects the agreement you reached with Representative McKinney's staff regarding the timing for introducing the amendatory language.

2. With respect to the amendatory language itself, I have made certain changes from the earlier version we provided Mr. Rahe. See Tab B for original version. I have narrowed the scope of the exception so that it only covers polygraph tests administered by CIA, NSA and DOD, rather than polygraph tests administered by all Federal agencies within the Intelligence Community, as defined in Executive Order 12333. There are two principal reasons for reducing the scope of the coverage. First, limiting the scope of the intelligence exception should make it easier to sell on the Hill. Second, the broad coverage in the original proposal is probably unnecessary. That is, it is extremely unlikely that the Bureau of Intelligence and Research at the Department of State or the FBI, both of which would have been within the scope of the original draft of the intelligence exception, would ever undertake to polygraph contractors in light of the fact that they are opposed to polygraphing their own employees. Therefore, I propose to explicitly limit the scope of the exception to just CIA and NSA, both of which currently have an Industrial Polygraph Program, and DOD, which is in the process of expanding its own internal polygraph program and may someday institute an Industrial Polygraph Program. It should be noted that inclusion of DOD within the exception, rather individual components within DOD that deal with intelligence related issues, e.g., Defense Intelligence Agency, makes the exception's coverage broader than just intelligence related matters. The reason for this broader coverage is to ensure that DOD would not be precluded from polygraphing contractors engaged in highly classified military projects, such as the

project, that have nothing to do with gathering intelligence. A strong argument could be made that components within DOD unrelated to intelligence would be precluded from polygraphing contractors if the exception only referred to DIA, NRO, or the intelligence arms of the uniform services.

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3. Please provide me you comments on the proposed amendment and letter at your convenience.

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Attachments

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